

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:16-CR-4-BO-1

UNITED STATES OF AMERICA

v.

HEMZA MENADE LEFSIH

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ORDER


This cause comes before the Court on defendant's Motion to Dismiss Counts as Multiplicitous. [DE 49]. For the reasons below, defendant's motion is DENIED.

In the underlying case, defendant was originally indicted on two counts of violating 18 U.S.C. § 1015(a) for alleged false statements under oath in a matter relating to naturalization, citizenship, or registry of aliens for his responses in an Application for Naturalization form and in a naturalization interview. [DE 14]. On April 12, 2016, a superseding indictment added two counts of violating 18 U.S.C. § 1546(a) for alleged false statements with respect to a material fact in an application required by immigration law based on the same responses to the Application for Naturalization form and statements made during the naturalization interview. [DE 44]. Defendant now moves to dismiss either counts one and three or two and four of the superseding indictment as multiplicitous. [DE 49].

As both parties acknowledge, the government is permitted to prosecute potentially multiplicitous counts "so long as no more than one punishment is eventually imposed." [DE 49, 51]; *see also Ball v. United States*, 470 U.S. 856, 860 & n.8 (1985); *United States v. DeLoach*, 2000 U.S. App. LEXIS 3824, *4-5 (4th Cir. Mar. 14, 2000) (unpublished). Moreover, as both parties have also acknowledged, any multiplicity issue can be addressed sufficiently after trial. Therefore, the Court finds that defendant's motion is premature at present and, thus, denied.

Defendant's motion is DENIED. [DE 49]. This matter will go to trial on all four counts included in the superseding indictment on April 27, 2016.

SO ORDERED, this 19 day of April, 2016.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE